

QUESTION: Is it legal for a person who does not hold a New York insurance license to be an owner of an insurance agency?

ANSWER: Yes. However, because New York Insurance Law prohibits an unlicensed person from accepting commissions on insurance sales, an unlicensed owner may not receive commissions on business written, but they may receive a share of the agency's net profits. See the New York State Department of Financial Services Office of the General Counsel advisory legal opinion of [January 10, 2006](#): "The unlicensed members of the LLC may not share in any insurance commissions but may share in the net profits of the LLC."

New York INSURANCE LAW — CHAPTER 28 OF THE CONSOLIDATED LAWS Article 21 — AGENTS, BROKERS, ADJUSTERS, CONSULTANTS AND INTERMEDIARIES

Ins. Law s 2102 Acting without a license

(e)(1) No person shall accept any commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(2) Renewal or other deferred commissions may be paid to a person or other entity for selling, soliciting or negotiating insurance in this state if the person or other entity was required to be licensed under this article at the time of the sale, solicitation or negotiation and was so licensed at that time.

(3) An insurer, fraternal benefit society, health maintenance organization or licensed insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance producer or to persons who do not sell, solicit or negotiate a contract of insurance in this state, unless the payment would violate any provision of this chapter.